

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:24-cv-00356-MOC-WCM**

<b>ISADORA Y. WALKER, and</b>	)	
<b>ANDREA G. GARCIA,</b>	)	
individually and on behalf of all	)	
others similarly situated,	)	
	)	<b>ORDER</b>
<b>Plaintiffs,</b>	)	
<b>v.</b>	)	
	)	
<b>BANK OF AMERICA, N.A.,</b>	)	
	)	
<b>Defendant.</b>	)	

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This matter is before the Court on Defendant Bank of America, N.A.’s Motion to Dismiss the Class Action Complaint (the “Motion to Dismiss,” Doc. 25) and a Joint Motion to Set Briefing Schedule Regarding Defendant’s Motion to Dismiss Plaintiffs’ Amended Complaint (the “Motion to Extend,” Doc. 30).

On March 29, 2024, Plaintiffs filed their original Complaint. Doc. 1.

On May 31, 2024, Defendant filed the Motion to Dismiss. Doc. 25.

On June 11, 2024, Plaintiffs’ deadline to file an Amended Complaint or a response to the Motion to Dismiss was extended through and including July 1, 2024.

The Motion to Extend was filed on June 27, 2024. Doc. 30.

Plaintiffs filed an Amended Complaint on July 1, 2024. Doc. 31.

## **I. The Motion to Dismiss**

“The general rule ... is that an amended pleading supersedes the original pleading, rendering the original pleading of no effect.” Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001); see also Fawzy v. Wauquiez Boats SNC, 873 F.3d 451, 455 (4th Cir. 2017) (“Because a properly filed amended complaint supersedes the original one and becomes the operative complaint in the case, it renders the original complaint ‘of no effect.’”); Colin v. Marconi Commerce Systems Employees’ Retirement Plan, 335 F.Supp.2d 590, 614 (M.D.N.C. 2004) (“Earlier motions made by Defendants were filed prior to and have been rendered moot by Plaintiffs’ filing of the Second Amended Complaint”); Ledford v. Eastern Band of Cherokee Indians, No. 1:20-CV-005-MR-DCK, 2020 WL 1042235 at 1 (W.D.N.C. March 3, 2020) (“It is well settled that a timely-filed amended pleading supersedes the original pleading, and that motions directed at superseded pleadings may be denied as moot”).

Therefore, the Motion to Dismiss is moot as a matter of law.

## **II. The Motion to Extend**

By the Motion to Extend, the parties request that: 1) Defendant’s deadline to file a response to the Amended Complaint be extended to August 9, 2024, 2) Plaintiffs’ deadline to respond to an anticipated Motion to Dismiss the Amended Complaint be extended to September 6, 2024, and 3) Defendant’s deadline to file a reply in support of its anticipated Motion to Dismiss the

Amended Complaint be extended to September 27, 2024.

Defendant's deadline to respond to the Amended Complaint will be extended.

Should a Motion to Dismiss the Amended Complaint be filed by Defendant, and should the parties reasonably require additional time to complete the briefing relative to that motion, they may request appropriate extensions at that time. However, their request for extensions of the response and reply deadlines for such a motion, which has not yet been filed, will be denied without prejudice.

**IT IS THEREFORE ORDERED THAT:**

1. Defendant Bank of America, N.A.'s Motion to Dismiss the Class Action Complaint (Doc. 25) is **DENIED AS MOOT AS A MATTER OF LAW.**
2. The Joint Motion to Set Briefing Schedule Regarding Defendant's Motion to Dismiss Plaintiffs' Amended Complaint (Doc. 30) is **GRANTED IN PART** as follows:
  - a. The deadline for Defendant to file an answer or otherwise respond to Plaintiffs' Amended Complaint is **EXTENDED** through and including **August 9, 2024.**

b. The parties' request for extensions of the briefing deadlines relative to an anticipated Motion to Dismiss by Defendant is **DENIED WITHOUT PREJUDICE** as stated herein.

Signed: July 2, 2024



W. Carleton Metcalf  
United States Magistrate Judge

